

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

1. STATE OF OKLAHOMA, ex rel.)
W.A. DREW EDMONDSON, in his capacity as)
ATTORNEY GENERAL OF THE STATE OF)
OKLAHOMA and OKLAHOMA SECRETARY)
OF THE ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the TRUSTEE FOR)
NATURAL RESOURCES FOR THE)
STATE OF OKLAHOMA,)

Plaintiffs,)

v.)

05-CV-0329 TCK-SAJ

1. TYSON FOODS, INC.,)
2. TYSON POULTRY, INC.,)
3. TYSON CHICKEN, INC.,)
4. COBB-VANTRESS, INC.,)
5. AVIAGEN, INC.,)
6. CAL-MAINE FOODS, INC.,)
7. CAL-MAINE FARMS, INC.,)
8. CARGILL, INC.,)
9. CARGILL TURKEY PRODUCTION, LLC,)
10. GEORGE'S, INC.,)
11. GEORGE'S FARMS, INC.,)
12. PETERSON FARMS, INC.,)
13. SIMMONS FOODS, INC., and)
14. WILLOW BROOK FOODS, INC.,)

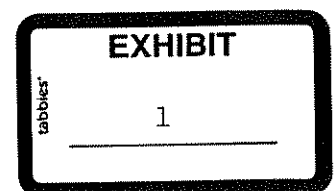
Defendants.)

PROPOSED ORDER

Regarding Dkt. # _____

The above-captioned case came on for hearing on the _____ day of _____,
2006 on the State of Oklahoma's motion concerning procedures for the discovery of electronic
stored information.

Now, based upon the files, records, and pleadings herein,



IT IS HEREBY ORDERED:

I. That on or before December 15, 2006, representatives of Plaintiffs and each Defendant shall meet and confer, either collectively or separately as the parties may deem appropriate, concerning the issues set forth below.

A. That each party shall bring to such conferences sufficient knowledge and information concerning that party's methods of storing, archiving, searching, and retrieving electronic data to allow meaningful discussion of the issues described below with respect to the party and each subdivision of the party likely to have information which is discoverable in this action as provided by Fed. R. Civ. P. 26.

1. With respect to the Plaintiff, the State of Oklahoma, such subdivisions would include all state bodies and agencies involved in managing, evaluating, overseeing, or regulating agriculture, surface and groundwater quality, point and non-point source pollution, waste management, environmental quality, conservation, public water supplies and treatment, parks, recreation and tourism, mining, watershed management, natural resources, wildlife management, and human health and safety in the Illinois River Watershed, or in producing or disposing of any of the constituents listed in paragraph 58 of Plaintiffs' First Amended Complaint.

2. With respect to Defendants, such subdivisions would include all subsidiaries, divisions, or other subordinate corporate forms (however designated) that are involved in any way with the raising or selling of poultry in the IRW or the sale or disposition of poultry litter in the IRW.

B. Each party shall be prepared at these conferences to discuss, as to its own storage, archiving, searching, and retrieval of electronic data, the following subjects:

1. The identities, titles, and responsibilities of its custodians of electronic materials;

2. The primary person who will represent that party in communications with other parties concerning electronic discovery. To the extent possible, that person should be familiar with electronic systems, technical aspects of e-discovery, organizational format issues, and methods of dispute resolution for e-discovery;

3. The nature, scope, character, organization, and format of each electronic storage system that the party has employed during the time period relevant to this action;

4. The document retention policies for each of these systems;

5. The types and subject matter of potentially discoverable data that may exist in the systems, as well as the present locations of such data (including databases, networks, systems, servers, archives, back-up or disaster-recovery systems, tapes, disks, drives, cartridges, laptops, personal computers, internet data, and other storage media);

6. The identity of the systems and/or media which are readily accessible;

7. The identify of the systems and/or media which are not readily accessible, as well as the basis for asserting the lack of reasonable accessibility;

8. The extent to which any such data may have been lost;

9. Methods that that party can employ to ensure the integrity and preservation of such data;

10. Whether any potentially discoverable data may have been deleted, whether restoration of the data is possible, and what would be necessary to accomplish that restoration;

11. Method(s) by which that party's e-mail may be searched;

12. The identification of systems or formats which may contain discoverable information, which a party does not intend to search;

13. Any potential problems that party presently anticipates in responding to electronic discovery;

14. For the general types of information, the formats that the parties will employ for the production of discoverable information, *i.e.*, hard copy, document images (*i.e.*, .pdf or .tiff formats), or native searchable formats;

15. Any specific software necessary to search, identify, retrieve, or read any electronic data that may be produced;

16. Methods by which information produced in electronic forms may be authenticated or, if possible, may be self-authenticating;

17. As to each Defendant, whether any of the potentially relevant data is claimed to be proprietary or trade secret and any measures that Defendant wishes taken to protect that data, other than protections already afforded through other orders in this case;

18. As to the State of Oklahoma, whether any potentially relevant data that is already public data under Oklahoma state law and how that public information may presently be accessed;

19. As to all parties, the method by which that party intends to identify and segregate from any information produced in an electronic format that is claimed to be protected by the attorney-client or other privilege, by the work-product doctrine, or other protection recognized by any other Order of the Court;

20. For information to be produced in an electronic format, the methods and costs for retrieving each particular type of data from each particular electronic system;

21. A proposed date for the parties to serve Supplemental Initial Disclosures to incorporate the identification of electronically stored information; and

22. Parameters for addressing the inadvertent production of privileged or confidential information, and potential procedures to minimize the waiver of same.

II. Not later than January 15, 2007, the parties shall submit to the Court a proposed stipulated order embodying their agreements concerning electronic discovery. The Court will consider entering an order to memorialize the agreements of the parties to what ever level of detail the parties deem appropriate; however, the proposed stipulated order should address at a minimum:

A. The primary electronic discovery contact for each party;

B. The method(s) the parties intend to employ to assure the retention and integrity of potentially discoverable information;

C. The format(s) in which information will be produced;

D. Any data or types of data that the parties can agree now are self-authenticating;

E. To the extent data or electronic materials are not self-authenticating, the method by which a party may authenticate for purposes of admissibility data or electronic material produced by another party;

F. The methods for segregating and identifying information subject to claims of privilege or other protections, and procedures for addressing information inadvertently disclosed;

G. The method(s) for allocating the costs of the production of various types of information from various systems; and

H. A proposed date by which the parties will exchange Supplemental Initial Disclosures to address electronically stored information.

III. To promote mutual disclosure of information relating to electronic discovery, the parties are encouraged to include in their proposed stipulated order the mutual exchange of interrogatories, requests for admission, and depositions relating to electronic discovery. Such stipulated discovery will not count against the limits on discovery requests and depositions set forth in the rules or in other orders of this Court.

IV. The parties may agree to defer any of the issues listed in paragraph II for further discussion at a later date.

V. To the extent the parties cannot agree on or agree to defer one or more of the issues described above, the parties shall include in the proposed stipulated order proposed alternative

provisions (bracketed and identified by proposing party) addressing each specific subject in dispute. Any party may submit with the proposed stipulated order a memorandum arguing in support of its particular proposed provision(s).

VI. Nothing in this order is intended to address or resolve any specific request for electronic data or to express any opinion as to whether any particular piece or group of data is properly discoverable under Rule 26 or Rule 34. The Court will consider such matters, if necessary, in the context of specific discovery requests and responses.

Dated: _____, 2006

United States Magistrate Judge